United Nations A/AC.109/2014/5

General Assembly

Distr.: General
10 February 2014

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Bermuda

Working paper prepared by the Secretariat

Contents

		Page
	The Territory at a glance	3
I.	Constitutional, legal and political issues	4
II.	Budget	5
III.	Economic conditions	5
	A. General	5
	B. Financial services	5
	C. Tourism	6
	D. Construction	6
	E. Transport and communications	6
IV.	Social conditions	7
	A. General	7
	B. Labour	7
	C. Education	7
	D. Public health	8

Note: The information contained in the present paper has been derived from public sources, including those of the territorial Government and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations. Information was transmitted by the administering Power on 19 December 2013. Further details are contained in previous working papers, available from www.un.org/en/decolonization/workingpapers.shtml.

14-23120 (E) 240214

Please recycle

E. Crime and public safety 8
F. Human rights and related issues 9
V. Environment 9
VI. Military issues 11
VII. Relations with international organizations and partners 11
VIII. Future status of the Territory 11
A. Position of the territorial Government 11
B. Position of the administering Power 11
C. Action taken by the General Assembly 12

The Territory at a glance

Territory: Bermuda is a Non-Self-Governing Territory under the Charter administered by the United Kingdom of Great Britain and Northern Ireland.

Representative of administering Power: Governor George Fergusson (May 2012).

Geography: Bermuda is located in the western part of the Atlantic Ocean, approximately 917 km east of the North Carolina coast of the United States of America. It consists of 8 major and 130 smaller islands.

Land area: 57 km².

Exclusive economic zone: 450,370 km².[a]

Population: 62,000 (2012).

Ethnic composition: Approximately 54 per cent black and 31 per cent white, with an estimated 15 per cent mixed and other races.

Language: English.

Capital: Hamilton.

Head of territorial Government: Premier Craig Cannonier.

Main political parties: One Bermuda Alliance; Progressive Labour Party.

Elections: Most recent: 17 December 2012; next: 2017.

Legislature: Bicameral legislature, comprising the Senate of 11 members appointed by the Governor (three at his/her discretion, five on the advice of the Premier, three on the advice of the leader of the Opposition) and the 36-member House of Assembly, elected in 36 constituencies for up to a five-year term.

Gross domestic product per capita: $84,400 (2012 estimate).

Economy: Financial services, tourism.

Main trading partners: United States of America, Canada, United Kingdom and States members of the Caribbean Community.

Unemployment rate: 9 per cent (2013 estimate).

Monetary unit: Bermuda dollar, pegged at parity with the United States dollar.

Brief history: Bermuda was discovered in 1505 by the Spanish explorer Juan de Bermudez, and by 1510 was referred to as "La Bermuda". It remained uninhabited until 1609, when British settlers on their way to Virginia were shipwrecked on one of the reefs. In 1612, King James I extended the charter of the Virginia Company to include Bermuda. After the Company's charter was annulled in 1684, government passed to the British Crown.

[a] Exclusive economic zone data from the "Sea Around Us" project, a collaboration between the University of British Columbia and the Pew Environment Group (see www.seaaroundus.org).

I. Constitutional, legal and political issues

1. The 1968 Constitution of Bermuda has been amended on five occasions, most recently in 2003. The Constitution gives the Territory almost full internal self-government, leaving the United Kingdom of Great Britain and Northern Ireland with a minimum number of constitutional controls. According to the administering Power, the Governor (and Commander-in-Chief), appointed by the British Crown, is responsible for defence, external affairs, internal security and the police.

2. The Territory has a parliamentary system of government, comprising a governor, a deputy governor, a cabinet and a bicameral legislature. The Governor appoints as Premier the member of the House of Assembly who appears to be best able to command the confidence of a majority of the 36 members of the House, each of whom represents a parliamentary constituency. The Premier heads a cabinet that may not comprise more than 14 members of the legislature.

3. The law and legal system of Bermuda are based on English common law and principles of equity, English statute law (in force since 1612) and acts of the Bermuda Parliament passed since then. The judiciary is appointed on the advice of the Chief Justice. There are three courts: the Magistrates' Court, the Supreme Court and the Court of Appeal. The British Overseas Territories Act 2002 provides for the conferral of British citizenship on British overseas territory citizens.

4. Voters in the general elections or referendums must be 18 years of age and Bermudian by birth or status or non-Bermudian electors on the register as at 1 May 1976. The current Premier, Craig Cannonier, took office on 18 December 2012, after the One Bermuda Alliance under his leadership won the elections held on the previous day.

5. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, a small number by Bermudian standards, 73.6 per cent voted against independence. The then-opposition party, the Progressive Labour Party, had organized a boycott of the referendum among supporters of independence, arguing that the issue should be resolved by general election.

6. In its 2005 report, the Bermuda Independence Commission noted that the racial question had been an ever-present feature of the social, economic and political landscape of Bermuda throughout its history. Racial divisions in Bermuda have, in significant measure, played out in support for, or opposition to, independence and the method to be used to ascertain the wishes of the population. The Progressive Labour Party, which was the ruling party in 2005, wished the issue of independence settled in the context of an election, while the United Bermuda Party, a forerunner of the One Bermuda Alliance, favoured a referendum. The Commission concluded that it was incumbent upon both political parties to share the merits of each method.

7. In November 2013, the Joint Ministerial Council, comprising the United Kingdom overseas territories, including Bermuda, met in London and issued a communiqué in which it reiterated that any decision to break the constitutional link with the United Kingdom should be on the basis of the clear and constitutionally expressed wish of the people of the overseas territory concerned. Section VIII.B below contains additional information on the meeting.

II. Budget

8. The Territory's fiscal year begins in April. As previously reported, funding priorities for the 2012/13 budget focused on the economy, education, young people, older persons, community renewal and law enforcement. The budget of $1.08 billion and associated economic stimulus measures were designed to meet the policy objectives in the aforementioned key areas. Additional budgetary information can be found in the relevant sections below.

III. Economic conditions

A. General

9. The economy of Bermuda is based primarily on the provision of financial services for international business and on tourism. According to the administering Power, the industrial sector is small, although construction can be a significant feature. Agriculture is limited, given that only approximately 20 per cent of the land is arable.

10. The estimated gross domestic product (GDP) of Bermuda for 2012 was $5.5 billion. Job losses and business closures continued to affect production adversely, leading to the fourth consecutive year of negative growth. A total of 10 of the 15 industrial sectors of the economy experienced lower economic activity, with the strongest impacts felt in the manufacturing, construction and electricity generation industries. Overall, the decline in economic growth translated into a drop in per capita GDP of 1.6 per cent.

11. According to the administering Power, the contraction in GDP represents a major challenge for the Government. It therefore developed initiatives to promote economic growth, some of which began to bear fruit at the close of 2013. For example, according to a report issued in 2014 by the Economist Intelligence Unit, the passage of the Incentives for Job Makers Act 2013 is a main plank of the Government's policy response to job losses.

B. Financial services

12. Bermuda is one of the world's leading international financial and business centres, accounting for, according to information from the Economist Intelligence Unit in 2014, around one quarter of its GDP. It is also among the major jurisdictions worldwide in large-scale insurance and reinsurance.

13. The Bermuda Monetary Authority is the integrated regulator of the financial service sector and has the power to levy civil fines. The Territory has no central bank. The peg to the United States dollar is managed by commercial banks meeting supply and demand at the one-to-one rate. The banks, rather than the Authority, own the foreign exchange reserves of Bermuda.

14. According to information provided by the administering Power, over the first nine months of 2013, 725 new international companies and partnerships were registered in Bermuda, representing an increase of 14.7 per cent compared with the 632 companies registered in the corresponding period for 2012. Bermuda registered

91 new insurance companies in 2013, an increase of 72 per cent compared with the 53 firms registered in 2012.

15. According to media reports, in an assessment conducted for the Financial Secrecy Index in November 2013, the Territory was considered to be towards the top end of financial secrecy arrangements. It was noted that the Territory had still to make major progress in offering satisfactory financial transparency. In 2013, non-governmental organizations such as ActionAid, Christian Aid and War on Want called upon Bermuda and others to create a public register of owners of companies hitherto incorporated without disclosure of beneficial ownership information.

C. Tourism

16. Government statistics indicate that more than 615,000 travellers visited Bermuda in 2012, spending a total of $293 million and contributing 5.4 per cent of GDP. Approximately 11 per cent of the Territory's workforce was directly and indirectly employed in tourism, which directly generated almost 4,000 jobs. Some 1,800 people are employed in support-related jobs.

17. The budget allocated to the Ministry of Tourism Development and Transport for 2013/14 was approximately $27 million. According to the administering Power, the hotels and restaurant sector continued to decline in 2012, recording a decrease of 6.4 per cent.

D. Construction

18. In 2012, the construction and quarrying sector in general declined by some 12 per cent. Government estimates, however, put the value of work carried out over the first half of 2013 at $80.4 million, compared with $61.9 million in the corresponding period of 2012, an increase of 29.9 per cent. The work includes construction on schools, hospitals and community centres, with 52.7 per cent undertaken by the private sector and 47.3 per cent by the public sector. In addition, in 2013 the Government made substantial improvements to the wharf in the Royal Naval Dockyard, in the west of the Territory, to accommodate a larger class of cruise ship.

E. Transport and communications

19. With a network of about 200 km of paved public roads and 400 km of private roads, Bermuda has a high road traffic density, with approximately 100 vehicles per kilometre. Restrictions on car ownership to one per household, coupled with a policy of allowing no rental cars, have resulted in the development of a well-used group transportation system. Free public transportation for resident students by bus and ferry continues to be available.

20. Regular commercial flights connect Bermuda to a number of destinations in the United States, Canada and the United Kingdom. Bermuda has its own air and ship regulatory agencies, with registries maintained by the Department of Civil Aviation and the Department of Maritime Administration.

21. The Territory has four international telecommunications service providers, three of which have their own transatlantic facilities, supplemented by satellite facilities for special services and emergency communications. As previously reported, a new regulatory authority assumed responsibility for the Territory's telecommunications industry in 2013. This non-governmental agency, funded by the telecommunications industry, is responsible for administering a legislative mandate that includes consumer protection and business development.

IV. Social conditions

A. General

22. In 2013/14, the Ministry of Community, Culture and Sports was allocated about $86 million, some 45 per cent of which was to ensure access to financial assistance by individuals with insufficient resources. In 2013, the Ministry continued the successful "Mirrors" programme, aimed at diverting young people away from antisocial behaviour and gang-related activity.

23. There are some 35 national sports governing bodies in Bermuda, underlining the importance for the Territory of sports at all levels, up to and including regional and international competitions.

B. Labour

24. According to employment data for 2012, the total number of jobs in Bermuda decreased by 5.2 per cent to 35,443 (from 37,399 in 2011). In 2013, the Territory experienced a significant economic downturn, resulting in the contraction of the labour market, business closures and hardship for many Bermudians. The Ministry of Home Affairs is responding to the challenges created by strengthening its core programmes assisting the population in finding employment and developing a framework through policy and legislative initiatives to stimulate economic growth.

25. According to the administering Power, Bermuda has, since June 2012, introduced the labour rules and regulations and the measures necessary to implement the Maritime Labour Convention, 2006, for all ships flying its flag. This landmark convention under the International Labour Organization covers the employment and social rights of seafarers, amending and consolidating some 34 existing maritime labour conventions and bringing the working and living standards of seafarers to the same level as those of people working ashore. Following ratification by the requisite number of States, the Convention entered into force worldwide on 20 August 2013.

C. Education

26. The Ministry of Education was provided with a budget of approximately $145.4 million for 2013/14 to achieve the objectives of its strategic plan for the Bermuda public school system, which aims to provide world-class education that meets global standards, including on special education. According to the administering Power, the Ministry's expanded portfolio includes the Bermuda National Library and the Bermuda Archives.

27. The literacy rate in the Territory is approximately 98 per cent for males and 99 per cent for females over 14 years of age. Education is compulsory and free in public schools for all children from 5 to 18 years of age. There are a number of private schools, including six offering early primary education, serving approximately 40 per cent of Bermudian pupils of compulsory school age. These institutions receive no government funding.

28. The Bermuda College is the Territory's main facility for tertiary education and is accredited by the New England Association of Schools and Colleges through its Commission on Institutions of Higher Education. According to the administering Power, the College has "articulation agreements" with 22 overseas universities and colleges (a process by which one institution matches its courses or requirements to coursework completed at another institution). Citizens from the British overseas territories benefit from the home student fee rate at British universities. In November 2013, the Council of the European Union adopted a decision on the association of the overseas countries and territories with the European Union that provides for access to, among others, horizontal European Union funds, such as those for higher education and vocational education.

D. Public health

29. For 2013/14, the Ministry of Health and Seniors was provided with a budget of $195 million, representing some 17 per cent of total government expenditure. In addition to regulation, the Ministry provides policy direction for the health sector, including an acute care hospital, a psychiatric hospital, the Bermuda Health Council, public health services, the health insurance system and the private health sector. The Territory has a hybrid health financing system consisting of direct public funding, social health insurance and government subsidies.

30. Bermuda has an ageing population and a low fertility rate. Life expectancy at birth is 82.1 years for women and 76.6 years for men. Life expectancy is four years less for blacks than for whites.

E. Crime and public safety

31. One of the main responsibilities of the Ministry of Public Safety is the strengthening of the professional standards of the Bermuda Police Service, the Bermuda Regiment, the Bermuda Fire and Rescue Service, the Department of Corrections and the Department for National Drug Control.

32. Efforts by the police to ensure public safety in the Territory include strong enforcement, community engagement and rigorous investigations leading to convictions. An inter-agency gang task force is developing long-term and short-term goals to combat anti-social behaviour.

33. In addition, in 2013 the United Kingdom funded a law enforcement adviser based in Miami, United States, who coordinates, manages and facilitates training and strategic advice to introduce new techniques and skills for the Territory's law enforcement agencies. Furthermore, *HMS Lancaster* and Royal Fleet Auxiliary *Wave Knight* were on patrol in the Caribbean and North Atlantic to provide disaster relief and humanitarian assistance as needed. They were also engaged in counter-narcotics

and interdiction patrols. Both ships made reconnaissance visits to the Territory to improve their coordination with local disaster management bodies.

F. Human rights and related issues

34. The following major international human rights instruments apply in Bermuda: the European Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the International Convention on the Elimination of All Forms of Racial Discrimination.

35. According to the administering Power, to modernize and strengthen the human rights framework in Bermuda, the Human Rights Act 1981 was amended in 2013 to add sexual orientation as a protected ground of discrimination, affording protection from discrimination with regard to employment, goods, services, facilities and accommodation.

36. Furthermore, the Government decided to develop a national gender policy to promote equitable decision-making involving the different needs, constraints and priorities with regard to men and women. For example, the Constitution poses a barrier to extending to Bermuda the Convention on the Elimination of All Forms of Discrimination against Women, with discussion focusing on article 15 of the Convention and discrimination between men and women under the Constitution, given that the non-Bermudian husband of a Bermudian woman has fewer rights than a non-Bermudian wife of a Bermudian man. Such discrimination would not be permitted under the Convention.

V. Environment

37. For 2013/14, the budget of the Ministry of Environment and Planning is approximately $27.5 million. Its functions are to lead Bermuda towards sustainability by protecting the island's natural and built environments. This includes the recent recovery of the Bermuda petrel (known locally as the cahow) from near extinction.

38. In 2013, the Ministry released a consultative document on the future of the exclusive economic zone of Bermuda. It serves as a tool to inform and assist the public in better understanding the issues and implications of potentially establishing a marine reserve in the zone.

39. Approximately 98 per cent of the Territory's electric power is provided by a single private entity, which relies exclusively on fossil fuels to generate electricity. The remaining 2 per cent of electric power is provided by the Tynes Bay waste-to-energy plant, which is owned and operated by the Ministry of Public Works.

40. In January 2014, the Environmental Audit Committee of the House of Commons of the United Kingdom issued a report on sustainability in the United Kingdom overseas territories, in which it identified financial and institutional

concerns regarding threats to unique habitats and species and the protection of biodiversity.

41. In its report, the Committee stated that, during its inquiry, the Government of the United Kingdom had expressed general but unspecified aspirations to cherish the environment in the overseas territories, but had been unwilling to acknowledge or to address its responsibilities under United Nations treaties. That was found to be disappointing because the environment in the overseas territories was globally significant and comprised 90 per cent of the biodiversity for which the Government of the United Kingdom had responsibility. According to the Committee, the Government had failed to negotiate the extension of the Convention on Biological Diversity — the flagship United Nations policy on biodiversity protection — to all the overseas territories and had not ensured the accurate monitoring of biodiversity there. The Committee said that, in environmental terms, the white paper on the overseas territories published in 2012 was considered a missed opportunity.

42. Among the conclusions, the Environmental Audit Committee mentioned that:

(a) In the light of the international significance of the biodiversity in the overseas territories, 13 years was too long a gap between white papers on the overseas territories;

(b) The Government of the United Kingdom was prepared to exercise hard and soft power in relation to financial matters in the overseas territories, but it was apparently not prepared to exercise those powers to protect biodiversity and to promote environmental sustainability;

(c) The four overseas territories to which the Convention on Biological Diversity had been extended (the British Virgin Islands, Gibraltar, Saint Helena and the Cayman Islands) had not been effectively included in biodiversity reporting by the United Kingdom; it was felt that compliance with the stipulations of the Convention was ultimately a responsibility of the Government of the United Kingdom;

(d) Without enhanced monitoring, the Department for Environment, Food and Rural Affairs of the United Kingdom could not accurately report under the Convention on Biological Diversity on the full extent of biodiversity in the overseas territories and therefore measure progress towards the commitment to halt biodiversity loss by 2020.

43. With regard to Bermuda, the Committee mentioned a recent high-profile case involving Tucker's Point where the Government had decided to grant a special development order that would allow tourism development on some of the most sensitive and environmentally valuable areas of Bermuda, including rare woodlands and caves that provide a habitat for numerous endemic species. The Ombudsman for Bermuda determined, however, that the Environment Charter signed in 2001 with the United Kingdom was legally binding.

44. Environmental mainstreaming projects are expected to be extended with funding from the United Kingdom to help the Territory to put environmental considerations at the heart of policy decision-making. The projects focus on the value of diverse ecosystems in supporting economies and the need to take account of those values in economic and physical planning, drawing together a range of stakeholders to identify priorities.

VI. Military issues

45. Bermuda maintains a defence regiment of some 600 soldiers, the Bermuda Regiment. In addition to part-time members, this figure includes some 140 "long-stay nucleus" and 30 full-time soldiers. The Territory's adult male population is subject to conscription by ballot, involving approximately three years of part-time liability for weekly drills, in addition to a 15-day annual camp. All soldiers are paid for their military service. The Regiment regularly cooperates with foreign Governments and militaries, including those of Canada, Jamaica and the United States, and assists in disaster relief operations in other Territories administered by the United Kingdom. Section IV.E above contains additional information in this regard.

46. According to information provided by the administering Power in 2013, plans were announced for the introduction of legislation to eliminate conscription and provide the Bermuda Regiment with a revised legal and disciplinary system in accordance with European Union standards for a modern military.

VII. Relations with international organizations and partners

47. Bermuda is an associate member of the Economic Commission for Latin America and the Caribbean, the Caribbean Community and the Caribbean Common Market and a member of the Caribbean Financial Action Task Force set up to combat money-laundering. The Territory also participates in the Caribbean Conservation Corporation, the Caribbean-United States Security Cooperation Dialogue, the International Trade Union Confederation, the International Criminal Police Organization and the International Olympic Committee.

48. As at January 2014, the Territory was a partner under the above-mentioned decision of the Council of the European Union, approved, among other things, in an effort to move away from a classic development cooperation approach to a reciprocal partnership that promotes sustainable development and the values and standards of the Union in the wider world.

VIII. Future status of the Territory

A. Position of the territorial Government

49. Information regarding developments on the future status of Bermuda is reflected in section I above.

B. Position of the administering Power

50. On 11 October 2013, at the 7th meeting of the Special Political and Decolonization Committee (Fourth Committee) during the sixty-eighth session of the General Assembly, the representative of the United Kingdom stated that the relationship of the Government of the United Kingdom with its overseas territories was modern and based on partnership, shared values and the right of the people of each territory to determine whether to remain British. Should the people of a

territory choose to remain British, the United Kingdom would maintain and deepen its special relationship with them.

51. He went on to say that, since the publication in June 2012 by the Government of the United Kingdom of a white paper entitled *The Overseas Territories: Security, Success and Sustainability*, the United Kingdom had been working closely with the territories to develop that partnership further. His Government had a fundamental responsibility to ensure the security and good governance of its overseas territories. The United Kingdom had strengthened the annual meeting with territory leaders into a joint ministerial council and had given it a clear mandate to lead work to review and implement the strategy and the commitments set out in the white paper (see A/C.4/68/SR.7).

52. At the second meeting of the Overseas Territories Joint Ministerial Council, held in London on 26 November 2013, the United Kingdom and overseas territory leaders agreed upon a communiqué that included the following passage setting out the joint position of the United Kingdom and the overseas territories on self-determination:

> We reiterate our commitment to continuing to build a modern relationship based on partnership, shared values and the principle of self-determination. The people of each territory have the right to choose whether or not their territory should remain a British overseas territory or to seek an alternative future.
>
> ...
>
> The right of self-determination is enshrined in the Charter of the United Nations. We believe that the people of all overseas territories have a right to determine their own futures, to decide on the path they wish to take and to maintain freely their constitutional link with the United Kingdom if that is their choice. Being a British territory entails a balance of benefits and responsibilities. We affirm a commitment to shared values, high standards of governance and building a stronger partnership. Any decision to break the constitutional link should be on the basis of the clear and constitutionally expressed wish of the people of the territory. We believe that the United Nations Decolonization Committee should delist territories where this is their wish.
>
> Each territory is unique and has its own constitution. We will continue work to complete the process of constitutional modernizations so that territories have the greatest self-government possible.

C. Action taken by the General Assembly

53. On 11 December 2013, the General Assembly adopted without a vote resolutions 68/95 A and B on the basis of the report of the Special Committee (A/68/23) and the subsequent recommendation by the Fourth Committee. Section III of resolution 68/95 B concerns Bermuda. In the operative paragraphs of that section, the General Assembly:

> 1. *Stresses* the importance of the 2005 report of the Bermuda Independence Commission, which provides a thorough examination of the

facts surrounding independence, and continues to regret that the plans for public meetings and the presentation of a Green Paper to the House of Assembly followed by a White Paper outlining the policy proposals for an independent Bermuda have so far not materialized;

2. *Requests* the administering Power to assist the Territory by facilitating its work concerning public educational outreach efforts, consistent with Article 73 *b* of the Charter, and in that regard calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

3. *Welcomes* the entry of Bermuda as an associate member of the Economic Commission for Latin America and the Caribbean in 2012.